THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.18836 of 1996

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Date: 14-02-2006

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Between:

1. Dachepalli Ethi Rajamma,
wife of Seetharamaswamy,
aged 37 years, resident of
22/69/3, Vasantharao Vari
Street, Kurupam Market,
Visakhapatnam and 2 others.

…Petitioners

And

1. The Government of A.P.,
rep. By the Secretary,
Revenue Department,
Hyderabad and 3 others.

… Respondents

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ORDER:

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The case of the petitioners is that they, who were assigned land in S.No.336-part of Rushikonda in Madhurawada Revenue village, on 05.06.1979 under D-form pattas, have been in possession of the said land by cultivating it from the time of assignment by paying cist and that respondents without any notice and without taking recourse to proceedings under the provisions of A.P. Assigned lands (Prohibition of Transfer) Act, 1977 (the Act), made a publication on 06.8.1996 in the local editions of the vernacular newspapers Eenadu and Vaartha about their

proposal to sell the lands which in fact are in their possession in a public auction on 25.09.1996, and since assigned lands cannot be resumed without taking recourse to due process of law or without acquiring them under the provisions of Land Acquisition Act, the proposed auction of lands in their possession may be declared as illegal and arbitrary.

2. In the counter-affidavit filed by third respondent, on behalf of respondents 2 and 3, it is alleged that the pattas relied on by the petitioners are fake and forged documents and that S.No.336 of Madhurawada, whose total extent is Ac.1360-25 cents, in fact, is a hillock and hence is uncultivable and was not assigned to anybody earlier, and for the first time an extent of Ac.137-19 cents, in the said S.No.336, was proposed for alienation in favour of Visakhapatnam Urban Development Authority (V.U.D.A) for satellite township, whereupon government vide G.O.No.120 dated 08.02.1994 allotted that extent of land to V.U.D.A on payment of market value and V.U.D.A after developing that land had put it to auction for the purpose of house sites and so petitioners are not entitled to any relief, as they based their claim on fake and forged documents.

3. Since the genuineness of the documents relied on by the petitioners is denied and disputed by the respondents, for them to be entitled to any relief on the basis of the documents being relied on by them, petitioners have to first establish the genuineness of the documents being relied on by them. Since this court, in exercise of its jurisdiction under Article 226 of the Constitution, cannot go into disputed questions of fact, in order to establish that the documents relied on by them are genuine and that they have acquired title to the property in S.No.336 under the pattas relied on by them petitioners have to approach civil court.

4. Therefore, with a direction to the petitioners to approach the civil court for appropriate relief, the writ petition is disposed of. No costs.

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C.Y.SOMAYAJULU, J.

Date: 14th February 2006

BSB